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ABSTRACT

A review of the literature on custody and visitation reveals many contradictory opinions, little empirical evidence and lack of a conceptual framework for assessing issues. An exploratory study is reported in which 99 custodial parents, 71 noncustodial parents and 70 children of divorce expressed their opinions on custody and visitation. The data revealed two clear needs of the children: a stable and supportive developmental context, and continuing attachment bonds with both parents and siblings. These needs seemed to have been met reasonably well for these subjects, most of whom were from single parent custody situations. The way in which they were met appears to be through continuing conflict between the parents, with custodial parents defending the first need and non-custodial parents fighting for the second. It is suggested that successful single parent custody follows a conflict model, that split custody might be a parallel model and joint custody a cooperation model. This framework appears fruitful for further empirical exploration of the nature of successful post-divorce family relationships. (Author/BH)

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Custody and Visitation: An Explication of Prevalent Patterns[1]

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Abstract

Review of literature on custody and visitation reveals many contradictory opinions, little empirical evidence, and lack of a conceptual framework for assessing issues. An exploratory study is reported in which 240 parents and children of divorce expressed their opinions on custody and visitation. The data revealed two clear needs of the children: (a) for a stable and supportive developmental context, and (b) for continuing attachment bonds with both parents and siblings. These needs seemed to have been met reasonably well for these subjects, most of whom were from single-parent custody situations. The way in which they were met appears to be through continuing conflict between the parents, with custodial parents defending the first need and noncustodial parents fighting for the second. It is suggested that successful single-parent custody follows a conflict model, that split custody might be a parallel model, and joint custody a cooperation model. This framework appears fruitful for further empirical exploration of the nature of successful post-divorce family relationships.

With the number of children experiencing parental divorce estimated at over 20 million (Jenkins, 1978) the issue of how best to handle post-divorce relationships between the children and their no-longer-married parents becomes particularly important. Virtually no empirical research has focused directly and comprehensively on the issues in this area. This paper will briefly review the available literature on post-divorce custody and visitation arrangements and report the results of a survey in which persons who have experienced divorce in their immediate families evaluated various arrangements and criteria for deciding them. The outcome provides a description of the functioning of the currently prevalent model of one parent assuming primary custody, and points to a conceptual framework which will facilitate more useful future research.

The Issues

A major issue in post-divorce custody concerns the appropriate degree and type of contact between parents and the child. Contradictory advice is found within both the social service and legal professions. One position stresses a child's overriding need for consistency in parenting. Thus, in divorce situations, especially where there is parental conflict and ongoing hostility, some counselors have recommended the disengagement of one parent in order to allow the child to have a consistent parental environment (Jenkins, 1977; Steinzor, 1969). The extreme of this position is presented in a book receiving much attention in legal circles (Goldstein, Freud & Solnit, 1973). It explicitly proposes that the noncustodial parent have no visiting "rights," but only "privileges" subject to the decisions of the custodial parent. Acceptance of the concept of the child's need for consistency in parenting is predominant in the legal system, which typically assigns single-parent custody while allowing only inter-

mittant and regulated contact with the noncustodial parent (Derdeyn, 1976). Others note the frequency of continued ambiguity in the parents' feelings and the uncertainty this may cause for the children (Weiss, 1975).

A different and more recent orientation is expressed by those who emphasize that the child also has a very strong need to maintain and continue to develop the personal relationships that he has already begun with each parent. With respect to divorce, this emphasis has led to advocacy of legally sanctioned joint custody (Eder, 1978; Gaddis, 1978; Greif, 1978; Grote & Weinstein, 1977 and Roman & Haddad, 1978), or of at least a substantial and flexible role for noncustodial parents (Kelly & Wallerstein, 1977; Seagull & Seagull, 1978). Advocates of these positions maintain the importance and feasibility of such arrangements even when the parents disagree or are hostile to each other.

Other controversies concern the criteria for deciding if a parent should have custody. The issues in this situation involve the sex of the parent, the degree of participation by the child in the decision (especially with respect to the age of the child), the personal or situational fitness of the parent, and if professionals rather than parents should make the decisions. As pointed out by Derdeyn (1976), the dominant rules of thumb in the legal system at present hold that mothers have a special fitness for the task of childrearing, especially when the child is young, that children cannot form valid judgments in the situation until they are older, that older children have a special need for the same-sex parent, and that one parent must be proven unfit (rather than fit) for there to be a decision contrary to the first three principles. But current research is calling these rules of thumb into question. The adequacy of single-parent fathers is being demonstrated (Gasser & Taylor, 1976; Keshet & Rosenthal, 1978; Mendes, 1976; Orthner, Brown & Ferguson, 1976). Kelly and

Wallerstein (1977) have documented that children of all ages express specific, age-related positions and needs after divorce. And even a lawyer outlining strategy for winning by proving the unfitness of the other points out that this is a "no win" situation for everyone concerned (Kazen, 1978). In keeping with this some have stated that a truly child-centered decision can only be made by neutral persons such as a professional psychologist (Despert, 1953) or a court official (Alexander, 1977). As shown above, however, the professional literature provides no clear path. The advice is that one parent should withdraw, and to maintain substantial and natural contact of the child with both parents. The sex of the parent matters and it does not. Younger children have no stable opinion in the matter and they do. Being a fit parent is insufficient cause for a parent to continue to play an active parental role.

Despite this confusion most reports agree that many children emerge from parental divorce without severe problems due to the experience (Lamb, 1977). It would appear that many parents have muddled through to a reasonable handling of the situation. What is missing is a clear explication to provide a basis for arranging post-divorce family relationships.

Previous Research on Custody and Visitation

A growing trend in the field of counseling (Beck, 1978) calls for a return to the direct, common-sense involvement of individuals in solving their own problems. Three studies have sought to evaluate custody and visitation arrangements by asking the opinions of people who have experienced familial divorce. Marschall and Gatz (1975) surveyed parents with custody of at least one child and reported that at the time of divorce the parents evaluated parental fitness criteria in a manner very parallel to the legal system. Rosen

(1977), in a survey of South African children of divorce, reported an overwhelming desire on the part of the children for freer access to the noncustodial parent. Landis (1960) reported that children retrospectively found divorce most traumatic when the change in family patterns was abrupt and when parents used them as pawns in continuing hostilities. Two major interview/observational studies of families after divorce reach differing conclusions concerning visitation patterns. Kelly and Wallerstein (1977) report that in virtually no cases could restriction of visiting be justified, but Hetherington, Cox and Cox (1978) consider frequent visiting with a preschool child detrimental if the parents were not cooperative. None of the studies brings together the opinions of both parents and children, nor do any of them explicitly study the full range of issues involved in custody and visitation.

The research data reported here are from an exploratory sample which allows comparison of the points of view of custodial and noncustodial parents, and of children of divorce, on the full range of issues discussed above. The approach was to ask their opinions directly by means of a questionnaire. The results (1) describe the overall position toward custody and visitation arrangements of a population of those who have experienced familial divorce, (2) delineate differences in opinion of those who have experienced divorce from the perspective of a custodial or noncustodial parent or as a child, (3) identify the apparent functionality and areas of stress in the currently prevalent model of assigning one parent as custodian of the children after divorce, and (4) provide insights for a conceptual framework for assessing custody and visitation arrangements.

The Study

The Questionnaire and Analysis

Respondents completed a four-page questionnaire, including demographic information, 32 Likert-scaled items concerning various types of custody and visitation arrangements and the issues surrounding them, 9 Likert-scaled items expressing attitudes toward their personal divorce experiences and toward family life, and open-ended questions concerning happiness and unhappiness associated with custody and visitation and the "parentness" of a noncustodial parent. Material from the open-ended questions was categorized and frequencies tabulated. The Likert-scaled scores on the attitudinal questions were used to divide the sample into those above and below the median on feelings about their divorce and feelings about family life. One-way analysis of variance and Scheffe's tests were used to test for differences in mean ratings on the custody and visitation items. The contrast groups were the three types of divorce perspective: custodial or noncustodial parent or child.

The Sample

Four judgments form the basis of sample selection. First, the goal of the research was to explore new territory - the simultaneous comparison of the opinions of three familial perspectives on divorce. Since the research was exploratory we judged it more important to collect a moderately large number of opinions than to consider intrafamilial interactions on the issues. Second, we consider it ethically questionable to ask children still subject to specific custody and visitation arrangements to evaluate them, so we asked late adolescents or young adults whose parents had divorced to serve as the spokespersons for the children. Third, although more representative sampling will be an important step for future research on divorce, we wanted our data to be comparable to the predominantly white, middle to upper-middle class subjects in previous research. Fourth, because we wanted a general picture of how post-divorce arrangements functioned

and research shows it takes time to work out satisfactory patterns, we did not wish to weight the sample with the recently divorced persons who could be obtained through court records. For these reasons we sought questionnaire respondents in a scatter-shot fashion, making appeals in university and community college classes and through the mailing lists of the local chapters of Parents Without Partners and Texas Fathers for Equal Rights. The final sample of 240 usable questionnaires came from 99 parents with custody of at least some of their children (73 mothers and 26 fathers), 71 parents without custody of any of their children (64 fathers and 7 mothers), and 70 children (46 girls and 24 boys).

The two parental groups were highly similar demographically, except for more males and more remarriages in the noncustodial group. The children of divorce came from somewhat older and wealthier families in which there were a greater proportion of remarriages, and there had been more time since divorce and the children were older at the time of divorce than in the parental groups. All three groups were similar to the predominantly white, higher SES pattern of previous research on divorce.

Close to 85% of the sample had experienced stable custody and visitation patterns. Seven were involved in joint custody and 15 had families with split custody (each parent has custody of some of the children), leaving 218 experiencing the single-parent custody model. A quarter of the sample reported visits as frequently as weekly, with another 19% visiting at least monthly. Eighty-nine per cent of the respondents described their visitation arrangements as either flexible or "reasonable." These data indicate that we did succeed in reaching a stable population which could tell us something of adaptive patterns.

On the three-item scale concerning attitudes toward one's own divorce

experience (trauma, hostility, and overall satisfaction associated with it), there was a normal distribution around the midpoint of the scale. However, noncustodial parents and respondents experiencing split custody were concentrated in the below-the-median group. On the six-item scale concerning attitudes toward family life (feelings between each parent and child, admiration toward parents as marital models, and desire to be married and to have children) the distribution was clustered around a much higher than average mean, but there were no discernable concentrations of special groups above or below the median. These patterns on the two attitudinal scores indicate that our sample is similar to previous ones in that those who experience familial divorce do encounter difficulties but seem to be able to resolve them positively. The fact that noncustodial parents and those respondents in split custody rate their divorce experience more negatively is the first indication of where the stresses in today's patterns of custody seem to lie.

Evaluations of Custody and Visitation Issues

The 32 items concerning custody and visitation were rated on a 5-point Likert scale with 5 as highly satisfactory or important and 1 as highly unsatisfactory or not at all important. The absolute level of the ratings and the group differences on the ratings will be discussed in relation to the issues raised above - degree of parent-child contact, sex of the parent, the role of the age of the child or professionals in the decision-making, and the personal or situational fitness of the parents.

Degree and Type of Parent-Child Contact. First, the notion of the disengagement of one parent from the children's lives does not come out favorably. Cutting off contact and only occasional contact received the lowest ratings of all 32 items (1.21 and 1.63 respectively). The Goldstein, Freud and Solnit (1973)

proposal of absolute single-parent custody was fourth lowest (1.80). Unrestricted contact of the child with a noncustodial parent was rated very highly (4.11), exceeded only by the importance of the personal stability of a custodial parent and the importance of keeping siblings together. In the open-ended descriptions of why the respondent had ever been happy or unhappy with the custody and visitation arrangements, happiness was clearly associated with continued contact, choice, flexibility, and cooperation, while unhappiness was associated with infrequency of contact and interference with contact. While their number is too small to draw strong conclusions, it is interesting that all seven of the respondents in joint custody situations rated their satisfaction as very high (5). Additionally, in discussing the parentness of a noncustodial parent, the reasons were dominated by issues of psychological closeness. Together with the greater sense of divorce trauma reported by noncustodial parents and those in split custody situations there is a consistent message: the pain and unhappiness of divorce for today's generation of veterans of divorce are strongly associated with loss of attachment bonds.

But how should such attachment be managed? The standard single-parent-custody-with-reasonable-visiting received a quite positive rating (4.10), despite significantly lower ratings by noncustodial parents. Three different patterns of shared custody received differing ratings. Alternating flexibly was at the low end of the neutral range (2.60), while scheduled alternation in large chunks such as six months or a year was treated slightly negatively (2.25) and short-term alternation such as weekly was rated more negatively (1.94). In all three cases noncustodial parents viewed these alternatives more favorably than either custodial parents or children, and those in joint custody strongly favored them. Longer visits of two weeks or more were favored (3.15) over visits of

short duration (2.51) or restriction of visiting to regular weekly or bi-weekly intervals (2.29). Custodial parents more strongly favored scheduled, short-duration visits and objected to longer-term visits. The children joined the custodial parents in the latter attitude but not the first two.

In summary, these data suggest that (a) those who have experienced single-parent custody find it generally workable, but (b) custodial parents tend to want to control the child's contact with the other parent; (c) there is unhappiness when there is a sense of loss of attachment between child and noncustodial parent, but (d) there appear to be doubts concerning the feasibility of joint custody as a remedy for the loss of attachment.

Sex of the Parent. Of the five items on this topic four were treated essentially neutrally (live with mother = 3.56; special need of young child for mother = 3.55; live with father = 3.47; special need of older child for same-sex parent = 3.12). Splitting custody to place children with the same-sex parent was viewed negatively (2.15). Children sided with the custodial parents in viewing maternal custody more favorably, but sided with the noncustodial parents in viewing the child's need for a same-sex parent as more important. In summary, while the sex of the parent had some importance to the child, it is not seen as an overriding issue, and split custody was not seen as the way to provide for a same-sex parent.

The Role of the Child's Age or Professionals in Decision-Making. Respondents endorsed allowing adolescent children to choose which parent to live with (3.91) and were slightly negative to the idea of children of any age making that choice (2.26). On both of these items custodial parents were less in favor of allowing the child these choices than were noncustodial parents and children. In contrast, when age was related to visitation rather than custody, children sided with custo-

dial parents against noncustodial parents in viewing age as an important criteria for deciding visitation. (The overall rating was moderately positive, 3.65). Anecdotal reports indicate that the child's positions here, and in objecting to long-term visits, reflect the adolescent's resentment of having to visit a parent rather than carry on his or her own social or work life. Overall, these items indicate that the respondents felt that there were legitimate age differences, but the children and, to a less degree, noncustodial parents, seemed to feel that the child's age was used to restrict their fuller participation in decisions.

Consulting the advice of a court-appointed psychologist was viewed very slightly negatively (2.47), with noncustodial parents favoring the option relative to custodial parents. Taking a lawyer's recommendation was viewed very negatively (1.68) with noncustodial parents being especially negative and children being the most optimistic about the altenative. The general impression here is that decisions regarding custody and visitation belong in the family, and that lawyers in particular should not be shaping the progress.

Personal Fitness of the Parent. Religious orientation of the parent was viewed neutrally (3.20) but the parent's personal stability received the highest rating of the 32 items (4.69), and having the child live with the parent with whom he has the closest relationship and considering post-visit disturbance in determining visiting patterns were both given moderately positive ratings (3.93 and 3.75 respectively). The only group difference on these items was that the noncustodial parents tended to discount the importance of post-visit disturbance. This might be either because they really do not get the opportunity to experience it or because they feel it is another weapon, like the child's age, used to keep them from seeing their children. Overall, the positiveness of the ratings on

this set of items indicates that the respondents to the survey consider the personal fitness of the parent to be important.

Situational Fitness of the Parent. Five of the seven items concerning the kinds of things a parent would be able to provide a child were also rated positively: keeping siblings together (4.49), providing financially as a custodian (4.10), spending time with the child daily (4.09), allowing the child to stay in the same neighborhood (3.95), considering geographical distance in determining visitation patterns (3.94). Providing a two-parent family was treated neutrally (3.20). The only item of this type treated negatively was splitting custody, regardless of the sex of the siblings (2.05). Noncustodial parents were relatively more favorable to split custody. Children rated financial ability and having a two-parent family as more important than did custodial parents, and they rated staying in the same neighborhood as more important than did noncustodial parents. Although the entire sample is endorsing the importance of a supportive and stable developmental context for the child, it is noteworthy that the children are consciously aware of it, and parents seem to discount the areas where they themselves have the least to offer: custodial parents, with lower incomes and rate of remarriage, discount the importance of providing financially or having a two-parent family, and noncustodial parents discount the importance to the child of staying with siblings or the friends and familiar situations which they have established away from the noncustodial parent. Of additional note is the consistent rejection of split custody, except among noncustodial parents.

Discussion and Conclusions

Review of the advice of counseling and legal professionals and of research on custody and visitation reveals challenges to the prevalent pattern of mothers

being given sole custody of children after divorce. One route of challenge has been to demonstrate the capability of fathers as custodial parents. This leads to the dilemma of choosing between two fit parents. One response to this dilemma is the increasing advocacy of changing the form of custody from a single-parent custody model to a joint or split custody model. Given the general success of children in adapting to divorce now, in some sense this might be expected to lead to the same type of dilemma: deciding between alternative fit forms of custody.

The research presented here explored the roles in the currently prevalent form of custody, in order to understand its functioning better. It not only describes the functioning of the single-parent custody model, it provides a conceptual framework for assessing custody and visitation arrangements.

In terms of understanding the needs of children of divorce, two clear threads emerge. These children need both (a) a stable and supportive developmental context and (b) strong continuing attachment bonds with their parents. The first is directly supported by positive ratings on the study and the second is indirectly supported by the evidence concerning the sources of unhappiness and dissatisfaction. These two threads are easily recognizable as general needs for all children. But there are two ways in which they merit special explicit attention when considering children of divorce. First, parental divorce represents a painful disruption of both threads for the child, making it likely that he or she requires a special effort to re-establish them. Therefore, particular attention needs to be given to how the post-divorce situation accomplishes this.

The data from our study suggest that single-parent custody is a model which works adaptively in a conflict mode. After divorce each parent becomes identified with one of the two threads: custodial parents, with their emphasis on regula-

tion and control, become the defenders of the stability of the child's developmental context; the noncustodial parent discounts the importance to the child of siblings and disturbance of life style in order to increase the possibility of contact and hence the maintenance of attachment. The inference is that as long as the parents each defend their own position, the dual needs of the child are met. Further research exploring intrafamilial interaction patterns is needed to explicitly test this hypothesis.

The same conceptual framework also lends insight to empirical investigation of alternative forms of custody. One might speculate that joint custody is a cooperative mode. While the respondents of this study were somewhat open to the possibility of joint custody, they expressed apparent doubt that it would work unless parents were highly cooperative and also seemed to doubt that children could handle continual short-term alternation between parents. Further research can continue to develop descriptions of the cooperative roles, especially under conditions of negative feelings between the parents, and confirm to what degree the alternating lifestyle really does or does not interfere with the child's needs for stability.

Split custody might be considered to be a parallel mode. Given the negativeness of this sample toward split custody, both in the direct ratings and in the indirect emotional evidence, there is a great need for exploring this mode of post-divorce custody and how it functions to meet (or not meet) the child's needs. It is suggested that future investigations might profitably be focused on the insights of this study, beginning with the premise that the child of divorce has two equally important needs from his parent, and exploring how various patterns or behaviors function to meet these needs.

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